

REMARKS

Reconsideration of the pending application is requested on the basis of the following particulars.

1. Interview of February 28, 2005

Applicants are appreciative of the opportunity to discuss the pending application with the examiner on February 28, 2005. During the interview, the subject matter of the pending claims and WO 02/083040 (Smits) were discussed at length.

Agreement was reached on amending the claims to define the medial side of the orthosis and clarify the location of the medial portion of the ankle-foot orthosis.

2. Amendment of the specification

The specification is amended to correct a minor informality in the specification. More specifically, the specification is amended to describe the proper drawing figure number on page 12, first full paragraph.

Entry of the amendment to the specification is respectfully requested in the next office communication.

3. Amendment of the claims

Claims 1, 23 and 31 are amended to recite that the medial portion of the ankle-foot orthosis is located solely on the medial side of the orthosis. These claims are amended as agreed at the interview.

This amendment of the claims clarifies the ordinary meaning of the term "medial" when referring to the human body wherein it is commonly understood

that the medial side of the body is that which is on the side that is closer to the mid-line sagittal plane.

Since the amendment of claims 1, 23 and 31 simply reinforces the ordinary meaning of the term "medial," this amendment is not considered to have a limiting effect on the description of the location of the medial portion of the orthosis.

Claim 11 is amended to correct a typographical error.

Claim 34 is amended to correct the dependency of this claim from claim "31" to claim --33--.

New claim 37 recites an ankle-foot orthosis having an ankle and foot portion that consists an anterior ankle portion, a foot plate and a medial portion that is positioned solely on the medial side of the orthosis. Support for new claim 37 is found in reference to the embodiment shown in FIG. 2 and the corresponding description in the written description.

New claim 38 recites an ankle-foot orthosis having an anterior ankle portion and medial portion that extend over a region of a human leg generally corresponding to the tibialis anterior. Support for new claim 38 is found in reference to FIG. 2, the corresponding description of FIG. 2 in the written description, and on page 7, second full paragraph.

Entry of the amendment of the claims 1, 11, 23, 31 and 34, and new claims 37 and 38 is respectfully requested.

4. Rejection of claims 1-3, 15-19, 22, 23, 27 and 28 under 35 U.S.C. 102 (e) as being anticipated by WO 02/083040A1 (Smits)

In view of the discussion at the interview, and particularly in view of the amendment of claims 1 and 23, this rejection is respectfully traversed on the

basis that the Smits disclosure does not teach or suggest each and every feature of an ankle-foot orthosis having a medial portion that is located solely on the medial side of the orthosis and connects to a foot plate.

Claims 2, 3, 15-19 and 22, which depend from claim 1, and claims 27 and 28, which depend from claim 23, are at least patentable based on their dependency from one of claims 1 and 23, and their individually recited features.

Turning specifically to the Smits disclosure, this disclosure describes the embodiments of FIGS. 1 and 2 as having a strut 2 that extends over the lateral side of the foot plate anterior of the lateral ankle over the front of the lower leg 4 (page 3, lines 6-8). Moreover, it is clear that the orthosis of FIG. 2 is for the left foot and therefore has the same orientation of FIG. 1 (page 2, lines 29-31). Nowhere in the Smits disclosure is there any reference to a “medial” strut that is located solely on the medial portion of the orthosis and connects the strut branches to the foot plate.

Of particular importance, the pending application makes specific reference on pages 4, 5 and 7 of the disadvantages of an ankle-foot orthosis that has a lateral strut located solely on the lateral side of the ORTHOSIS. Moreover, the pending application indicates on page 7 that a medial strut is helpful in treating impairment of the tibialis anterior since it extends generally along the tibialis anterior and compensates for lost muscle function of the tibialis anterior so as to support the foot in an optimal manner.

In view of these observations, and the discussion at the interview, it is submitted that the Smits disclosure does not teach or suggest the ankle-foot orthosis of pending claims 1-3, 15-19, 22, 23, 27 and 28.

Accordingly, withdrawal of this rejection and allowance of these claims are respectfully requested.

5. Rejection of claims 4, 5, 25, 26, 31 and 32 under 35 U.S.C. 103(a) as being unpatentable over WO 02/083040A1 (Smits) in view of U.S. Patent 6,726,645 (Davis)

In view of the discussion at the interview, and particularly in view of the amendment of claims 1, 23 and 31, this rejection is respectfully traversed on the basis that the Smits disclosure and the Davis patent, whether considered collectively or individually, do not teach or suggest each and every feature of an ankle-foot orthosis having a medial portion that is located solely on the medial side of the orthosis and connects to a foot plate.

Claims 4 and 5, which depend from claim 1, claims 25, 26, which depend from claim 23, and claim 32, which depends from claim 31, are at least patentable based on their dependency from one of claims 1, 23 and 31, and their individually recited features.

The shortcomings of the Smits disclosure in view of the pending claims are described above. The Davis patent fails to make up for the basic shortcomings of the Smits disclosure. Specifically, FIG. 17 of the Davis patent shows the ankle-foot orthosis described therein as having both medial and lateral portions connecting the ankle portion to the foot portion. Nowhere is there a disclosure or suggestion of providing the orthosis with only a medial portion solely located on the medial side of the orthosis.

In view of these observations, and the discussion at the interview, it is submitted that the Smits disclosure and the Davis patent, whether considered collectively or individually, do not teach or suggest the ankle-foot orthosis of pending claims 4, 5, 25, 26, 31 and 32.

Accordingly, withdrawal of this rejection and allowance of these claims are respectfully requested.

6. Rejection of claims 14, 33 and 34 under 35 U.S.C. 103(a) as being unpatentable over WO 02/083040A1 (Smits) in view of U.S. Patent 5,961,477 (Turtzo)

In view of the discussion at the interview, and particularly in view of the amendment of claims 1 and 31, this rejection is respectfully traversed on the basis that the Smits disclosure and the Turtzo patent, whether considered collectively or individually, do not teach or suggest each and every feature of an ankle-foot orthosis having a medial portion that is located solely on the medial side of the orthosis and connects to a foot plate.

Claim 14, which depends from claim 1, and claim 33 and 34, which depend from claim 31, are at least patentable based on their dependency from one of claims 1 and 31, and their individually recited features.

The shortcomings of the Smits disclosure in view of the pending claims are described above. The Turtzo patent fails to make up for the basic shortcomings of the Smits disclosure. Specifically, FIG. 1 of the Turtzo patent shows the ankle-foot orthosis described therein as having a heel portion which extends solely along the posterior portion of the ankle-foot orthosis. Nowhere is there a disclosure or suggestion of providing the orthosis with only a medial portion solely located on the medial side of the orthosis.

In view of these observations, and the discussion at the interview, it is submitted that the Smits disclosure and the Turtzo patent, whether considered collectively or individually, do not teach or suggest the ankle-foot orthosis of pending claims 14, 33 and 34.

Accordingly, withdrawal of this rejection and allowance of these claims are respectfully requested.

7. Rejection of claim 29 under 35 U.S.C. 103(a) as being unpatentable over WO 02/083040A1 (Smits) in view of U.S. Patent 5,961,477 (Turtzo)

In view of the discussion at the interview, and particularly in view of the amendment of claim 23, this rejection is respectfully traversed on the basis that the Smits disclosure and the Turtzo patent, whether considered collectively or individually, do not teach or suggest each and every feature of an ankle-foot orthosis having a medial portion that is located solely on the medial side of the orthosis and connects to a foot plate. Claim 29, which depends from claim 23, is at least patentable based on its dependency from claim 23, and its individually recited features.

Accordingly, withdrawal of this rejection and allowance of these claims are respectfully requested.

8. Rejection of claim 30 under 35 U.S.C. 103(a) as being unpatentable over WO 02/083040A1 (Smits) in view of U.S. Patent 5,961,477 (Turtzo)

In view of the discussion at the interview, and particularly in view of the amendment of claim 23, this rejection is respectfully traversed on the basis that the Smits disclosure and the Turtzo patent, whether considered collectively or individually, do not teach or suggest each and every feature of an ankle-foot orthosis having a medial portion that is located solely on the medial side of the orthosis and connects to a foot plate. Claim 30, which depends from claim 23, is at least patentable based on its dependency from claim 23, and its individually recited features.

Accordingly, withdrawal of this rejection and allowance of these claims are respectfully requested.

Application No.: 10/702,447
Examiner: Fadi H. DAHBOUR
Art Unit: 3743

9. Conclusion

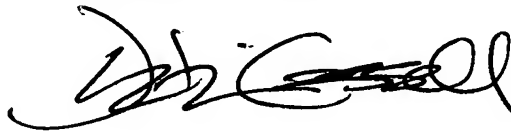
As a result of the amendment of the claims and the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicants' Attorney, the Examiner is invited to contact the undersigned at the numbers shown below.

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: (703) 683-0500

Date: March 1, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Justin J. Cassell', with a stylized, cursive script.

JUSTIN J. CASSELL
Attorney for Applicants
Registration No. 46,205